

AMENDED IN ASSEMBLY MARCH 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 315

Introduced by Assembly Member Bigelow

February 12, 2015

An act to ~~amend Section 4051~~ *repeal Sections 3029 and 4401.5 of the Food and Agricultural Code, relating to ~~district agricultural associations: powers and duties: fairs.~~*

LEGISLATIVE COUNSEL'S DIGEST

AB 315, as amended, Bigelow. ~~District agricultural associations: Fairs: annual reports and expenditures.~~

Existing law provides for admission to a state, district, county, or citrus fair without payment of an established admission price to persons with credential admissions or courtesy pass admissions, and requires each fair to make an annual report to the Department of Food and Agriculture of the total number of credential and courtesy pass admissions issued and honored at the fair.

This bill would repeal the annual reporting requirement.

Existing law requires the Secretary of Food and Agriculture to expend up to \$100,000 each fiscal year for an exhibit or exhibits at a fair that demonstrates, in a creative or innovative manner, the process of production and use of food and fiber. Existing law also requires the secretary to annually provide for a conference of fair judges to aid the department in prescribing regulations relating to judging exhibits and premiums offered for exhibits, and authorizes the secretary to expend up to \$15,000 each fiscal year for those purposes.

This bill would repeal those provisions.

Existing law divides the state into agricultural districts, and provides for the management of each district by a district agricultural association. Existing law sets forth the powers and duties of a district agricultural association, including, among others, the power to contract in accordance with specified requirements.

~~This bill would make nonsubstantive changes to the latter provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 3029 of the Food and Agricultural Code~~
2 ~~is repealed.~~

3 ~~3029. Each fair shall make an annual report to the department,~~
4 ~~as prescribed by the department, of the total number of credential~~
5 ~~and courtesy pass admissions issued and honored at the fair.~~

6 ~~SEC. 2. Section 4401.5 of the Food and Agricultural Code is~~
7 ~~repealed.~~

8 ~~4401.5. (a) The director shall expend an amount not to exceed~~
9 ~~a total of one hundred thousand dollars (\$100,000) in any fiscal~~
10 ~~year for any exhibit or exhibits located on any state-supported fair~~
11 ~~demonstrating, in a creative and innovative manner, the process~~
12 ~~of production and use of food and fiber from the producer to the~~
13 ~~consumer in this state.~~

14 ~~(b) The director shall annually provide for a conference of fair~~
15 ~~judges to aid the department in prescribing regulations adopted~~
16 ~~pursuant to Section 4501. The director may expend up to fifteen~~
17 ~~thousand dollars (\$15,000) in any fiscal year for such purposes.~~

18 ~~SECTION 1. Section 4051 of the Food and Agricultural Code~~
19 ~~is amended to read:~~

20 ~~4051. (a) An association may do any of the following:~~

21 ~~(1) Contract, in accordance with all of the following:~~

22 ~~(A) The written policies and procedures for contracting that are~~
23 ~~developed and maintained by the board of directors of the~~
24 ~~association in accordance with this section.~~

25 ~~(B) All applicable state laws governing contracts, except as~~
26 ~~follows:~~

27 ~~(i) A grant or contract entered into by an association for goods~~
28 ~~is not subject to Chapter 2 (commencing with Section 10290) of~~
29 ~~Part 2 of Division 2 of the Public Contract Code.~~

1 (ii) ~~A grant or contract entered into by an association is not~~
2 ~~subject to Chapter 3 (commencing with Section 12100) of Part 2~~
3 ~~of Division 2 of the Public Contract Code.~~

4 (C) ~~If the estimated total cost of any construction project or~~
5 ~~similar work carried out under this section exceeds twenty-five~~
6 ~~thousand dollars (\$25,000), the association shall solicit bids in~~
7 ~~writing and shall award the work to the lowest responsible bidder~~
8 ~~or reject all bids. The association is subject to all applicable~~
9 ~~provisions of the Public Contract Code.~~

10 (D) ~~An association may elect to become subject to the provisions~~
11 ~~of the Uniform Public Construction Cost Accounting Act (Chapter~~
12 ~~2 (commencing with Section 22000) of Part 3 of Division 2 of the~~
13 ~~Public Contract Code) and the Small Business Procurement and~~
14 ~~Contract Act (Chapter 6.5 (commencing with Section 14835) of~~
15 ~~Part 5.5 of Division 3 of Title 2 of the Government Code), but~~
16 ~~exempt from the reporting requirements noted in subdivision (f)~~
17 ~~of Section 14838.1 of the Government Code.~~

18 (2) ~~Accept funds or gifts of value from the United States or any~~
19 ~~person to aid in carrying out the purposes of this part.~~

20 (3) ~~Conduct or contract for programs, and contract for the~~
21 ~~purchase or lease of goods that are necessary to effectuate the~~
22 ~~purposes of this chapter, either independently or in cooperation~~
23 ~~with any individual, public or private organization, or federal,~~
24 ~~state, or local governmental agency.~~

25 (4) ~~Establish and maintain a bank checking account or other~~
26 ~~financial institution account, approved by the Director of Finance~~
27 ~~in accordance with Sections 16506 and 16605 of the Government~~
28 ~~Code, for depositing funds received by the district agricultural~~
29 ~~association. All funds maintained in an account authorized by this~~
30 ~~paragraph shall be used in accordance with Section 4001.~~

31 (5) ~~Approve the annual budget of the association and establish~~
32 ~~a program for paying vendors who contract with the association.~~

33 (6) ~~Contract with any county or county fair association for~~
34 ~~holding a fair jointly with the county or county fair association.~~
35 ~~The joint fair is a district fair of the association.~~

36 (7) ~~Make or adopt all necessary orders, rules, or regulations for~~
37 ~~governing the activities of the association. Notwithstanding~~
38 ~~paragraph (14), any orders, rules, or regulations adopted by the~~
39 ~~board are exempt from Chapter 3.5 (commencing with Section~~
40 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

1 ~~For informational purposes only, however, any order, rule, or~~
2 ~~regulation adopted by the board may be transmitted to the Office~~
3 ~~of Administrative Law for filing with the Secretary of State~~
4 ~~pursuant to Section 11343 of the Government Code.~~

5 ~~(8) Operate a payroll system for paying employees, and a system~~
6 ~~for accounting for vacation and sick leave credits of employees.~~

7 ~~(9) Delegate to the officers and employees of the association~~
8 ~~the exercise of powers vested in the board, as the board may deem~~
9 ~~desirable, for the orderly management and operation of the~~
10 ~~association.~~

11 ~~(10) With the approval of the Department of General Services,~~
12 ~~purchase, acquire, hold, sell, or exchange, or convey any interest~~
13 ~~in real property. Any acquisition of land or other real property~~
14 ~~shall be subject to the Property Acquisition Law (Part 11~~
15 ~~(commencing with Section 15850) of Division 3 of Title 2 of the~~
16 ~~Government Code).~~

17 ~~(11) With the approval of the Department of General Services,~~
18 ~~make permanent improvements upon publicly owned real property~~
19 ~~adjacent to, or near the vicinity of, the real property of the~~
20 ~~association when the improvements materially benefit the property~~
21 ~~of the association pursuant to Section 11011 of the Government~~
22 ~~Code.~~

23 ~~(12) With the approval of the Department of General Services,~~
24 ~~lease for the use of its real property, or any portion of that property,~~
25 ~~to any person or public body for whatever purpose as may be~~
26 ~~approved by the board.~~

27 ~~(13) Use or manage any of its property jointly or in connection~~
28 ~~with any lessee or sublessee, for any purpose approved by the~~
29 ~~board.~~

30 ~~(14) With the approval of the Department of General Services,~~
31 ~~pledge any revenues, moneys, accounts, accounts receivable,~~
32 ~~contract rights, and other rights to payment of whatever kind,~~
33 ~~pursuant to terms and conditions approved by the board. The~~
34 ~~revenues, moneys, accounts, accounts receivable, contract rights,~~
35 ~~and other rights to payment of whatever kind pledged by the~~
36 ~~association or its assignees constitute a lien or security interest~~
37 ~~that immediately attaches to the property pledged, and is effective,~~
38 ~~binding, and enforceable against the association, its successors,~~
39 ~~purchasers of the property pledged, creditors, and all others~~
40 ~~asserting rights therein, to the extent set forth, and in accordance~~

1 with, the terms and conditions of the pledge, irrespective of whether
2 those persons have notice of the pledge and without the need for
3 physical delivery, recordation, filing, or further action.

4 (15) ~~With the approval of the Secretary of Food and Agriculture,~~
5 ~~enter into a joint powers agreement pursuant to the Joint Exercise~~
6 ~~of Powers Act (Chapter 5 (commencing with Section 6500) of~~
7 ~~Division 7 of Title 1 of the Government Code).~~

8 (b) ~~In developing the written policies and procedures for~~
9 ~~contracting, the board shall incorporate the following to apply to~~
10 ~~contracts or procurement by the association:~~

11 (1) ~~To ensure the fullest competition, the board shall adopt and~~
12 ~~publish competitive bidding procedures for the award of a~~
13 ~~procurement or contract involving an expenditure of more than~~
14 ~~one hundred thousand dollars (\$100,000). The competitive bidding~~
15 ~~procedures shall include, but not be limited to, requirements for~~
16 ~~submission of bids and accompanying documentation, guidelines~~
17 ~~for the use of requests for proposals, invitations to bid, or other~~
18 ~~methods of bidding, and a bid protest procedure. The general~~
19 ~~manager shall determine whether the goods or services subject to~~
20 ~~this paragraph are available through existing contracts or price~~
21 ~~schedules of the Department of General Services. The Legislature~~
22 ~~finds and declares that fairs are a valuable community resource~~
23 ~~and recognizes that local businesses and local communities make~~
24 ~~valuable contributions to fairs that include direct and indirect~~
25 ~~support of fair programs. The Legislature further finds and declares~~
26 ~~that local businesses often provide opportunity purchases to local~~
27 ~~fairs that, for similar things available through the state purchasing~~
28 ~~program, may be purchased locally at a price equivalent to or less~~
29 ~~than that available through the state purchasing program. As used~~
30 ~~in this subdivision, opportunity purchases means purchases made~~
31 ~~locally, either individually or cooperatively, at a price equal to or~~
32 ~~less than the price available through the state purchasing program~~
33 ~~on or off state contract.~~

34 (2) ~~The contracting standards, procedures, and rules contained~~
35 ~~in this subdivision shall also apply with respect to any subcontract~~
36 ~~involving an expenditure of more than one hundred thousand~~
37 ~~dollars (\$100,000). The board shall establish, as part of the bidding~~
38 ~~procedures for general contracts, subcontracting guidelines that~~
39 ~~implement this requirement.~~

~~(3) With the approval of the Department of General Services, pledge any and all revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind, pursuant to terms and conditions approved by the board. Any issuance of bonds, contracts entered into, debts incurred, settlements, judgments, or liens under this section or pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code), shall not directly, indirectly, or contingently obligate the state or any political subdivision of the state to levy or to pledge any form of taxation therefor or to make any appropriation for their payment. The bond shall contain on its face a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on, this bond."~~

~~(4) This section shall not apply to Article 1 (commencing with Section 4101) of Chapter 6 of Part 3.~~

~~(e) (1) Notwithstanding any other law, an association shall adopt a fiscal review policy as follows:~~

~~(A) An association with an annual budget exceeding five million dollars (\$5,000,000) shall conduct an annual audit by an independent certified public accountant or certified public accountancy firm selected by the board.~~

~~(B) An association with an annual budget of less than five million dollars (\$5,000,000) shall have its books and accounts examined and reviewed annually and audited once every three years by an independent certified public accountant or certified public accountancy firm selected by the board.~~

~~(2) Notwithstanding paragraph (1), the department may require an audit to be conducted before the times specified in subparagraphs (A) and (B) of paragraph (1) if the department or the state deems the audit is necessary.~~